

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

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Mark and Desiree Clucas,

Plaintiffs,

v.

Santander Consumer USA, Inc.,

Defendant.

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CIVIL ACTION NO.: 3:10-cv-02151 (B)

**PLAINTIFFS' MOTION FOR CONTINUANCE AND MOTION TO AMEND  
SCHEDULING ORDER**

Plaintiffs file this, their Motion for Continuance and Motion to Amend Scheduling Order.

**I. PROCEDURAL BACKGROUND**

Plaintiffs initiated this action to remedy Defendant's violations of the Federal Fair Debt Collection Practices Act, 15 U.S.C. Section 1692 *et. seq.* (hereinafter "FDCPA"), as well as its violations of related State law obligations. Trial in this case is set for December 5, 2011, the deadline for Pre-Trial Materials is November 18, 2011, the deadline for Pre-Trial Disclosures and Objections is October 28, 2011, the deadline for Dispositive Motions is August 22, 2011 (extended from July 1, 2011 by agreement of the parties), and the deadline for Mediation is July 22, 2011.

Defendant has taken the deposition of Plaintiff Mark Clucas. Mr. Clucas's deposition took place in Dallas, Texas on April 19, 2011. The depositions of Defendant's corporate representative and Plaintiff Desiree Clucas were scheduled by agreement of the parties for June 30 and July 1, respectively. Shortly before those depositions occurred, the parties agreed to

postpone these depositions so that settlement negotiations could proceed without incurring additional expenses and attorneys' fees. Plaintiffs and Defendant agreed to extend the discovery deadline for 33 days after the current July 22, 2011 mediation deadline so that they could attempt resolution of the case. Further, Mr. Clucas has been told by his employer that he cannot have any additional time off in 2011 without losing his job, which would preclude him from attending mediation and trial.

## **II. MOTION FOR CONTINUANCE AND MOTION TO AMEND SCHEDULING ORDER**

As settlement negotiations are proceeding between the parties as noted above, these depositions as well as another deposition of a fact witness in Defendant's corporate department have not yet occurred and have not been re-scheduled. As a result, Plaintiffs seek additional time to prosecute this case, in the event the parties' efforts to resolve this matter are not successful. The parties request additional time to complete discovery and mediation in this case. Therefore, Plaintiffs respectfully request the Court to grant a continuance of the Trial of this matter for at least 120 days past the current setting and to extend the other deadlines for at least 120 days as well, including the deadlines for Pre-Trial Materials, Pre-Trial Disclosures and Objections, Dispositive Motions, Mediation, and the Discovery Period in an amended scheduling order.

**WHEREFORE, PREMISES CONSIDERED,** and for the reasons above-stated, Plaintiffs respectfully request that this Honorable Court grant Plaintiffs' Motion for Continuance of the trial of this cause, grant Plaintiffs' Motion to Amend the Scheduling Order.

Dated: July 18, 2011

Respectfully submitted,  
By: /s/ Diana P. Larson  
Diana P. Larson

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ATTORNEYS FOR PLAINTIFF

### **CERTIFICATE OF SERVICE**

The undersigned counsel certifies that on July 19, 2011, counsel filed and served Defendant through the ECF system Plaintiffs' Motion for Continuance and Motion to Amend Scheduling Order.

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/s/Diana P. Larson  
Diana P. Larson

### **CERTIFICATE OF CONFERENCE**

The undersigned counsel certifies that on July 18, 2011, counsel conferred regarding Plaintiffs' Motion for Continuance and Motion to Amend Scheduling Order. Defendant's counsel is opposed to a continuance of the trial date and other deadlines, but is unopposed to extending the deadlines for the discovery period, mediation and dispositive motions.

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/s/Diana P. Larson  
Diana P. Larson